

TITLE 11A

SUBDIVISION REGULATIONS

11.01 GENERAL PROVISIONS

11.01.01 TITLE: This Title shall be entitled as the **SUBDIVISION ORDINANCE OF FRUIT HEIGHTS CITY, UTAH**, and may be so cited.

11.01.02 Purpose

Promote the health, safety, convenience, and general welfare of the inhabitants of the City in the matter of Subdivisions or matters affected by Subdivisions through provisions designed to:

1. To promote the health, safety, convenience, and general welfare of the residents of the City;
2. To ensure the efficient and orderly subdivision and development of land within the City;
3. To prevent the uncontrolled division and development of real property, which may be done without considering the rights and best interests of adjoining property owners and the City as a whole:
4. To avoid subdivisions and developments that:
 - a. Do not comply with the City general plan or ordinances,
 - b. Cannot be adequately served by existing utilities or public services,
 - c. May prove to be dangerous or unsafe due to design, natural or man-made hazards existing prior to or created by the subdivision and development,
 - d. May cause an undue burden on existing traffic or transportation services, or
 - e. May require the future expenditure of public funds to correct problems caused by the subdivision and development;
5. To provide design standards for public improvements, facilities, and utilities to provide for reasonable access to public rights-of-way, parks, trails, or open spaces, to provide for the dedication of land and streets deemed necessary for the proper development of the subdivision, and to provide for easements or rights-of-way that are necessary to service the properties created by the subdivision.

11.01.03 Scope

1. This Title is designed to inform the Subdivider and public of the requirements and conditions necessary to obtain approval of a Subdivision. Because each parcel of real property has unique site/situational characteristics (whether natural or man-made), there may be some aspects of subdivision development that cannot easily be articulated. For this reason, it is not possible to cover every possible contingency. Therefore, the Administrative Land Use Authority has the authority to impose reasonable conditions for the subdivision and development in addition to those expressly required, provided that:

- a. The conditions are not arbitrary or capricious;
 - b. The conditions do not conflict with any local, state, federal law.
2. This Title shall apply to lots or parcels where public rights of way are dedicated, and public improvements and infrastructure are installed regardless of whether the land is subdivided.

11.01.04 Definitions – Process Related

Administrative Land Use Authority. The appointed board, consisting of the City Manager and/or City Planner, Public Works Director, City Engineer, and others as assigned, are responsible for reviewing applications and land use decisions arising from subdivision applications. The Planning Commission shall be the Administrative Land Use Authority for the approval of the Preliminary Plat only. The process is administered and overseen by the City Planner or designee. The City Council shall be the Administrative Land Use Authority for the approval of vacating a street, right of way, or easement only.

Applicant or Subdivider or Developer. A person or persons making an application to create a subdivision.

City: Fruit Heights City, Utah

City Engineer: The city engineer of Fruit Heights City or any individual or firm retained or designated by Fruit Heights City as the city engineer for the purpose of performing engineering duties.

City Planner: City Planner or contracted City Planner.

Complete Application. A Subdivision Application shall be considered complete as defined in each Application Section.

County: Davis County, Utah

Development, Design, and Construction Standards: The Public Works Standards referred to in this Title and adopted by **Title 8A.**

Geological Hazard. The restrictions and requirements of the review cycle do not apply to the review of subdivision applications affecting property within identified geological hazard areas (property identified to be within the city's "Sensitive Lands Overlay Zone" – see FHCC Title 10-10).

Improvements: All infrastructure improvements, such as water, sewer, storm drain, land drain, secondary water, curbs, gutters, sidewalk, grading, streetlights, paving, landscaping, fencing, electric power, natural gas, communication lines, and all other elements required by this Title and the Public Works Standards.

Planning Commission: The Fruit Heights City Planning Commission.

Review Cycle. There shall be no more than four (4) total review cycles. A review cycle shall be considered complete when:

1. Complete Application is submitted to the Administrative Land Use Authority;
2. The Administrative Land Use Authority Review is complete;

3. The Applicant Response to Review is complete; and
4. The Administrative Land Use Authority provides a written statement to the Applicant stating completion of the review cycle and next required steps for approval.

Review Cycle, Exceptions.

1. Additional Review Cycle(s). May be required when a modification or correction is necessary to protect public health and safety or to enforce state or federal law when a change or correction is necessitated by the Applicant's adjustment to a plan set or an update to a phase plan that adjusts infrastructure needed for the specific development.
2. Additional Time for Review. If the Applicant does not submit a revised plan within twenty (20) business days after the Administrative Land Use Authority requires a modification or correction, the Administrative Land Use Authority shall have an additional twenty (20) business days to respond.
3. Other Land Use Applications. The Review Cycle as defined in this Title applies only to single family, townhome, and twin-home land use applications. Review times and cycles may vary for multifamily, commercial, industrial, institutional, and other non-residential land use applications.

Subdivision Improvement Plans. Civil engineering and design plans associated with required infrastructure and City owned/operated utilities required for a Subdivision.

Subdivision Ordinance Review. A review to verify that an application for a Subdivision meets the criteria of the applicable City Ordinance(s). The Administrative Land Use Authority shall notify the Applicant in writing of the deficiency in the application and the right to appeal the determination to a designated Appeal Authority as stated in Title 10-13-4.

Subdivision Plan Review. A review of the Applicant's Subdivision improvement plans and other aspects of the Subdivision application to verify that the application complies with all ordinances and applicable standards and specifications, including the current Public Works Standards for Development, Design, and Construction.

11.01.05 Validity

If any section, subsection, sentence, clause, or phrase of this Title is, for any reason held to be invalid, such holding shall not affect the validity of the remaining portion of this Title.

11.02 ADMINISTRATION

11.02.01 Final Platting and Recording Required

1. **Terms.** Any division of real property within the City is subject to the terms of this Title. The division of real property includes the sale, gift, transfer, conveyances, split, or other division that results in changing the boundaries or legal descriptions of a given parcel of real property and results in the creation of a new parcel of real property.

2. **Unlawful Subdivision.** No land which is located wholly or in part in Fruit Heights City may be subdivided, the plat be filed and recorded in the County Recorder's Office, nor lots be sold unless such Subdivision has been created pursuant to and in accordance with the provisions of this ordinance.
 - a. **Exception.** Joining a lot or lots to an existing parcel does not constitute a Subdivision nor does it require a Subdivision plat amendment.
3. **Final Plat Approval.** Lots shall not be transferred or sold, nor shall a building permit be issued for a structure thereon, until the final plan of a Subdivision is approved, and the final plat is recorded in accordance with this Title and the provisions of state law, and until the improvements and infrastructure required in connection with the Subdivision have been constructed or guaranteed as provided herein.
4. **Sales of Land Parcels.** No person shall sell or exchange or offer to sell or exchange any parcel of land which is in any part of a Subdivision or a larger tract of land or offer for a recordation in the County Recorder's Office, any deed conveying such a parcel of land or any interest therein, unless such Subdivision has been created pursuant to, and in accordance with, the provisions of this Title.
5. **Building Permits.** Building permits shall not be issued prior to approval and recordation of the final plat.

11.02.02 Work to be Done by Licensed Professional

All plans must be prepared and stamped by licensed and/or certified professionals in the State of Utah including, but not limited to, architects, landscape architects, land planners, engineers, surveyors, geotechnical engineers, transportation engineers or other professionals as deemed necessary by the City.

11.02.03 Approval Procedure

1. **Approval Process.** The approval process for a Subdivision shall be in sequential order consisting of no more than four (4) review cycles:
 - a. Concept Plan (optional)
 - b. Preliminary Plat Review
 - c. Preliminary Improvement Plan Review
 - d. Final Plat and Improvement Plan Review
2. **Expiration.** Each Subdivision application review cycle shall be valid for a period of not more than one (1) year. At the request of the Subdivider, the Administrative Land Use Authority may grant up to two (2) six-month (6) extensions if substantial progress has been demonstrated by the Applicant. Expired applications shall be deemed null and void and require the Subdivider to start the Subdivision approval process over.

11.02.04 Phasing

Subdivisions may be done in phases. Each phase shall follow the Approval Procedure as outlined in 11.02.03.

1. The Preliminary Plat shall include all ground anticipated to be subdivided. The phases shall be shown as part of the Preliminary Plat and submitted with the Preliminary Plat.
2. Development shall be organized such that the phases will be contiguous, and the required improvements and infrastructure will be continuous as deemed feasible and desirable by the Administrative Land Use Authority.
3. Less desirable or expensive aspects of the Subdivision should not be delayed to the final phases of development.
4. The Administrative Land Use Authority may require a pro-rated portion of the improvements and infrastructure be developed, or guaranteed in escrow, in earlier phases.
5. Where it is prudent to install improvements and infrastructure that extend into the next phase, such work may be done when it is shown on the plans and approved accordingly.

11.02.05 Rezone of Property

If rezoning the property is required, the Applicant must first obtain rezone approval as required in City Code, prior to subdividing.

11.02.06 Development Agreements

Any Development Agreement proposed by the Applicant, or the City shall be approved prior to subdividing.

11.02.07 Public Hearings

The Planning Commission shall hold public hearings for the general plan, zoning map changes, and any other Land Use Ordinances, applications, and amendments for which a public hearing is required by statute. *See, Utah Code Annotated §10-9a-103, §10-9a-404, §10-9a-502, §10-9a-503, §10-9a-602, and §10-9a-608.* A public hearing shall not be held for administrative decisions except for conditional use applications.

11.02.08 Application Requirements and Review Process

Notwithstanding the specific requirements outlined in this Section for each Application, all proposed Subdivisions shall show compliance with all applicable laws and standards. Poorly drawn, incomplete, or illegible drawings shall be cause for denial. The Administrative Land Use Authority may waive certain informational and design requirements when they clearly do not apply and are irrelevant to a proposed Subdivision and shall state such waiver as part of the review cycle.

11.03 CONCEPT PLAN

1. **Purpose.** Prior to submitting a formal application, a prospective Applicant may request a meeting with city staff to obtain initial feedback and information. This meeting shall be optional, non-binding, and considered separate from and independent of the required Subdivision approval review cycles.

11.04 PRELIMINARY PLAT AND IMPROVEMENT PLANS

1. **Purpose.** For the Administrative Land Use Authority to complete an initial Subdivision Ordinance Review and an initial Subdivision Plan Review.
2. **Application Required.** The Applicant shall submit the required Preliminary Subdivision Plat Application for review and approval by the Administrative Land Use Authority.
 - a. **Exception.** When a proposed Subdivision does not involve the development of new public infrastructure, an exception may be granted by the City Engineer to waive, in writing, the need for the review of the Preliminary Improvement Plans.
3. **Complete Application.** An application shall not be considered complete and the first review cycle shall not begin unless and until the Applicant has submitted the following items:
 - a. A completed Preliminary Subdivision Plat Application as provided by the City.
 - b. Additional studies and information as listed on the application form and as necessary to show feasible compliance with applicable codes and regulations (see 11.07.01.4).
 - c. A signed Owner-Agent Affidavit (if the Owner is being represented by another party).
 - d. Current Davis County ownership plat depicting property proposed for subdivision and all contiguous property around land proposed to be subdivided.
 - e. A recent Title Report (dated no more than 30 days from the time of application) covering the proposed subdivided property identifying ownership, easements of record, liens or other encumbrances and verifies payment of taxes and assessments.
 - f. Will serve letters from all applicable service providers.
 - g. A digital copy of the preliminary plat as outlined in the Public Works Standards.
 - h. A digital copy of the preliminary improvement plans to include at a minimum the following:
 - i. Grading and drainage plan.
 - A. Storm Drain calculations
 - B. Low Impact Design (LID) analysis and Water Quality Report
 - ii. Utility plan.
 - i. Payment of fees as stated in the City's current adopted Fee Schedule.
4. **Time Frame.**
 - a. **Location is Not Within 100 Feet of Water Conveyance Facility.** Within fifteen (15) business days after the receipt of the completed application, the Applicant shall receive written comments from the Administrative Land Use Authority.

- i. After the Applicant's complete Response is received the Applicant will be placed on the agenda of the next regularly scheduled meeting of the Planning Commission for approval. The Planning Commission shall review the subdivision relative to the general plan and the provisions of this Title.
 - ii. Approval from the Planning Commission shall complete the Review Cycle.
- b. **Location is Within 100 Feet of Water Conveyance Facility.** Within twenty (20) calendar days after the receipt of the completed application, the City shall notify in writing the Water Conveyance Facility Owner(s) of the Application and request comments related to the following aspects of the water conveyance facility: access, maintenance, protection, safety, and any other issues related.
 - i. Within fifteen (15) business days after the twenty (20) calendar days comment period, whether comments are received from the Water Conveyance Facility Owner(s) or not, the Applicant shall receive written comments from the Administrative Land Use Authority. Total time frame shall not exceed forty (40) calendar days.
 - ii. After the Applicant's complete Response is received the Applicant will be placed on the agenda of the next regularly scheduled meeting of the Planning Commission for approval.
 - iii. Approval from the Planning Commission shall complete the Review Cycle.
- c. **Water Conveyance Facility.** Shall mean a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage and any related easement for the ditch, canal, flume, pipeline, or other watercourse. *See State Code 73-1-15.5-1b.*

11.05 FINAL PLAT AND IMPROVEMENT PLANS

1. **Purpose.** For the Administrative Land Use Authority to complete Final Subdivision Plat and Improvement Plans Review.
2. **Application Required.** The Applicant shall submit the required Final Subdivision Plat and Improvement Plans Application for review and approval by the Administrative Land Use Authority.
3. **Complete Application.** An application shall not be considered complete and the review cycle shall not begin unless and until the following items are submitted:
 - a. Preliminary approval by the Planning Commission.
 - b. Completion of all requirements from previous Review Cycle.
 - c. A completed Final Plat and Improvement Plans Application as provided by the City.

- d. Additional studies and information as listed on the application form and as necessary to show feasible compliance with applicable codes and regulations (see 11.09.01.4).
- e. A signed Owner-Agent Affidavit (if the Owner is being represented by another party).
- f. Proof of tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
- g. Approval letter from secondary water provider(s).
- h. Written approval from other agencies as applicable (e.g., Army Corps of Engineers, Utah Department of Transportation, Davis County Surveyor).
- i. A digital copy of the final plat and improvement plans as revised and updated from the previous review cycle.
- j. Plan and profile drawings for all existing and proposed infrastructure.
- k. Final covenants, conditions, and restrictions (if applicable) which shall be recorded with the final plat.
- l. Final agreements (if applicable) executed by all parties.
- m. Engineer's Cost Estimate for all improvements and infrastructure that includes quantities, units, and costs for all improvements and infrastructure required.
- n. Payment of fees as stated in the City's current adopted Fee Schedule.

4. Signors of Plat

- a. Mayor (as a non-discretionary and ministerial act for the acceptance of land and public improvements that may be proposed for dedication to the City);
- b. City Recorder (attesting the Mayor's signature);
- c. City Planner;
- d. City Engineer;
- e. City Attorney;
- f. Each Landowner on record as described on the plat – Owner's Dedication as shown on the plat and notarized; and
- g. A surveyor who prepares the plat shall certify that the surveyor holds a license in accordance with Utah State Code Title §58-22 and has completed a survey of the property, verifying all measurements, or has referenced a record of survey map of the existing property boundaries shown on the plat, and verified the locations of the boundaries and has placed monuments as represented on the plat.

5. **Review Cycle and Approval.** The Administrative Land Use Authority may complete up to three (3) final review cycles, as deemed necessary. After the Applicant has responded to either the fourth or final review cycle, and the Applicant has complied with each modification requested in the Administrative Land Use Authority's previous review cycle, no additional reviews are required if the Applicant has not materially changed the plan – other than those changes in response to the requested modifications or corrections.
6. **Time Frame.** Within twenty (20) business days after the receipt of the completed application, the Applicant shall receive written comments from the Administrative Land Use Authority.

- a. **Appeal of Improvement Plans Approval.** If, on the fourth or final review, the Administrative Land Use Authority fails to respond within the time frame, the Applicant may make a formal request for a decision to approve or deny the final revised set of plans.

Within ten (10) days of this request, the City shall assemble an appeal panel consisting of one (1) licensed engineer designated by the City, one (1) licensed engineer designated by the Applicant, and one (1) licensed engineer agreed upon and designated by the engineers selected by the City and the Applicant. No member of the panel may have any interest in the application that is the subject of the appeal.

The Applicant shall pay fifty percent (50%) of the cost of the appeal review and the City's fee as stated in the current adopted Consolidated Fee Schedule.

The decision by the appeal panel shall be final, subject to a petition being filed within thirty (30) days of the decision in the District Court.

7. **Final Plat Approval – Notice Required.** Within thirty (30) days after approving a final plat, the municipality shall submit an electronic copy of the final approved plat to the Utah Geospatial Resource Center for inclusion in the unified statewide 911 emergency services database.

11.06 IMPROVEMENTS AND INFRASTRUCTURE

11.06.01 General Requirements

All improvements and infrastructure related to a Subdivision shall be installed according to the requirements of the City Code and the Public Works Standards. The Subdivider shall be responsible for extending all utilities and improvements and infrastructure to the Subdivision if they are not already adjacent to or on the site including curb, gutter, and sidewalk on streets operated by the Utah Department of Transportation. When the City is to take ownership of public infrastructure and improvements, the City shall require the Subdivider to install such improvements in a manner that does not cause excessive liability or maintenance costs for the City at the convenience or advantage of the Subdivider.

11.06.02 Utilities Required

The following utilities are required to be provided by the Subdivider to each lot:

1. **Culinary Water.** The water source shall be provided by Fruit Heights City unless an alternative permanent source is approved by the City Engineer and the Davis County Health Department.
2. **Sewer.** The sewer service shall be provided by Central Davis Sewer District.
 - a. [REFER TO NEW CODE IN TITLE 9A or 8A re: Sewer District Rules and Regulations.]
3. **Secondary Water.** Secondary water service shall be provided by Hights Creek Irrigation Company (unless the property involves an recognized exception), or an alternative permanent source as approved by the City.
4. **Land Drain.** The land drain system must be installed in areas with shallow groundwater. If basements are eliminated and the geotechnical report can provide sufficient documentation that groundwater levels (including historical) are deep enough to eliminate the need for the land drain system, the Administrative Land Use Authority and the City Engineer may allow this requirement to be waived.
5. **Electrical Power.** The electrical power will be provided by Rocky Mountain Power (RMP), or their successors and all installations must follow RMP Standards.
6. **Natural Gas.** The natural gas service will be provided by Dominion Energy, or their successors, and all installations must follow Dominion Energy Standards.

11.06.03 Storm Water

Storm water plans shall meet the requirements of the Public Works Standards and the City Code. The City Engineer shall determine the appropriate implementation strategy for meeting the City's storm water-related standards, using the current Capital Facilities Plan as a guide; this may include decisions regarding ownership and access to storm water ponds, and where and how the water shall flow as part of the City's overall storm water system.

11.06.04 Inspections

All improvements and infrastructure shall receive inspections by the City Engineer and/or City Public Works Department as required in the Public Works Standards and as necessary to verify conformance with the City Code and the Public Works Standards. Failure to obtain the necessary inspections shall result in a fine as outlined in this Title. Failure to obtain the necessary inspections may also necessitate removal and re-installation of the improvements and infrastructure at the Subdivider's sole cost, as such removal and re-installation are determined by the City Engineer and/or Public Works Department.

11.06.05 Fee in lieu of Actual Improvements

Subdivisions adjacent to a rural road or another road where the surrounding area is lacking public improvements and infrastructure may request the option to pay a fee in lieu of constructing the required improvements and infrastructure. The Administrative Land Use Authority and City Engineer may also require payment of the fee in lieu to make improvements as a part of a larger future project. An Agreement approving the payment of the fee in lieu may be approved during the Preliminary

Improvement Plans Application phase by the Administrative Land Use Authority and City Engineer. Fee in lieu Agreements should only be approved when it is unreasonable or undesirable for the improvements and infrastructure to be installed with the development. The Agreement should include:

1. A calculation of the cost of the improvements not being installed.
2. For areas where the future project date is known, inflation costs at a maximum of 3% per year may be used up to the project year. For areas where the future project date is not known, inflation costs may only be included at a maximum of 3% per year for 5 years.
3. For areas where off-site improvements have already been constructed and excess capacity exists that was paid for by the city, Subdividers may “buy in” to the existing improvements to meet their requirements. A determination of available excess capacity and cost will be evaluated by the City Engineer.

11.07 ENGINEERING AND DESIGN REQUIREMENTS

11.07.01 General Requirements

1. **Access.** All lots shall be accessed by a fully improved city street and shall meet the frontage requirements as stated in Title 10, Zoning Regulations. It shall be the responsibility of the Subdivider to provide proper road access to the Subdivision as required in the Fruit Heights City Code, the Public Works Standards, and (where applicable) the Utah Department of Transportation. The mere existence of a public road or right-of-way to the proposed Subdivision does not mean that adequate access exists. It shall be the Subdivider’s responsibility to construct and dedicate all public roads required by the City to provide access to the Subdivision.
2. **Design Standards.** All Subdivisions shall comply with the current adopted design standards set forth in the City Code and in the Public Works Standards.
3. **Public Infrastructure and Improvements.** The City Engineer shall have authority to require adjustments to the utility plan associated with a proposed Subdivision including adjustments to the type, manner, and location of utilities. Such adjustments to the utility plan may be required to provide connectivity among developments, provide for public safety, and minimize public infrastructure maintenance and liability.
4. **Additional Reports and Studies.**
 - a. Geotechnical reports as required by the Sensitive Lands Evaluation & Development Standards, Public Works Standards and the City Engineer.
 - b. A traffic study may be required by the City Engineer depending on his/her judgment regarding the size of the Subdivision, complex traffic movements involved with the proposal, interaction of streets with State roads, new traffic patterns, traffic volume in or near the Subdivision, history of crashes or expected crashes in the area, general safety, or anticipated traffic delays due to the Subdivision.
 - c. Storm water pollution protection as required by the Public Works Standards and City Code.

- d. Wetland delineation and mitigation may be required as determined by the City Engineer.
- 5. **Preservation of Natural Conditions.** The design and development of Subdivisions shall preserve insofar as possible the natural terrain, natural drainage, existing topsoil, and trees as determined by the Administrative Land Use Authority for the Preliminary Subdivision Applications.
- 6. **Hazards.** Land subject to hazardous conditions such as slides, mud flows, rock falls, faults, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods, and polluted or non-potable water supply shall not be subdivided until complete mitigation of the hazards has been properly identified and included in the Subdivision Improvement Plans (see also Title 10-10A).

11.07.02 Street Layout and Access

- 1. **General.** All streets shall conform, as much as practicable, to the adopted General Plan, Transportation Master Plan, and the Public Works Standards.
- 2. **Approval.** Overall street layout and access shall be reviewed and approved as part of the Preliminary Subdivision Applications. The Administrative Land Use Authority shall have authority to require stub roads, additional access into the development, and adjustments to the street layout, street cross-section, and right of way widths. Such adjustments to the Subdivision plan may be required to provide connectivity among developments, provide for public safety and emergency access, minimize public infrastructure maintenance and liability, and align with the General Plan and adopted transportation plans.
- 3. **Required Ingress/Egress Access.**
 - a. Developments where the number of residential building units exceeds thirty (30) along a single street shall have a minimum of two (2) ingress/egress routes which are two (2) fully improved City rights-of-way. Thirty (30) residential units shall include all proposed residential units and all existing single-family buildings and lots, empty building lots, and each apartment unit located along a single road up to and including the nearest intersection with two (2) existing means of ingress/egress.
 - b. A development that extends more than one thousand eight hundred feet (1,800') from a connecting street must provide a second ingress/egress.
- 4. **Exceptions.** The Administrative Land Use Authority for the Preliminary Subdivision Applications may waive these access requirements for more than thirty (30) residential units with one point of improved ingress/egress when unique topographic circumstances or "landlocked" (physically restrained from other access points) from adjacent, existing developments circumstances exist. A waiver of these regulations may require additional development requirements to ensure public safety standards are met.
- 5. **Private Rights-Of-Way.** Private rights-of-way may be used for development purposes in all zoning districts subject to the following conditions:

- a. Private rights-of-way shall be designed and built as per the Fruit Heights Public Works Standards.
- b. Private rights-of-way shall meet the provisions of the zoning district.
- c. Private rights-of-way shall not be permitted for any portion of road that is contained on the Fruit Heights City Transportation Map.
- d. Private rights-of-way shall not be permitted if the road serves to connect other rights-of-way or subdivisions.
- e. Private rights-of-way shall meet all requirements of the international fire code, appendix D.
- f. All development on private rights of way of two (2) lots or more shall establish a homeowners' association or similar organization that will be responsible for the care and maintenance of any common property or utilities. A complete set of covenants, conditions, and restrictions (CC&Rs) shall outline the care and maintenance of all private utilities, street improvements and common spaces. The CC&Rs shall also set forth the funding mechanism for that maintenance. The CC&Rs shall be recorded and run with the land.
- g. An easement for all public utilities shall be provided and dedicated to the city.
- h. Private Rights-Of-Way; Maintenance: The City will not be responsible in any way for maintenance or upkeep of surface improvements for private rights-of-way and does not guarantee services like mail or garbage collection will extend to the residences on such streets.

11.07.03 Trails

- 1. **Required.** Where a proposed Subdivision includes or adjoins an existing or planned public trail system as specified in the City's General Plan or Trails Master Plan the Subdivision plat shall include and provide for the development of a public trail infrastructure in accordance with said Plan.
- 2. **Improvements.** Trails shall be developed in accordance with applicable AASHTO standards with sufficient width, and to safely accommodate two-way bicycle and pedestrian traffic along the trail corridor. In absence of applicable AASHTO standards, the Davis County Trails Standards are hereby adopted and applied.
 - a. The Administrative Land Use Authority, when feasible, may allow the trail right-of-way to be a substitute for required sidewalk and park strip area on one side of the street right-of-way dedicated within the Subdivision.
 - b. All trail improvements shall be dedicated to the City or an agreed upon non-profit third party, for the operation and maintenance after final acceptance.

11.07.04 (Reserved)

11.07.05 Street Lighting

1. The subdivider shall pay for all outdoor street lighting fixtures.
2. The placement and installation of street lighting shall be in accordance with the adopted Development, Design, and Construction Standards.
3. The subdivider shall be required to get power installed into the subdivision and notify the City when power is available.
4. The City is responsible for ordering the streetlights. The streetlights shall then be installed and maintained by the City's authorized contractor.

11.07.06 Easements

1. **General Utility Easements.** A minimum ten foot (10') general utility easement shall traverse the frontage(s) of each lot. The Administrative Land Use Authority may require additional easements to accommodate utility planning and future access.

11.07.07 Lots and Parcels

1. The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for structures and be properly related to topography and conform to requirements set forth herein. Side lines of lots shall be approximately at right angles, or radial to the street line whenever possible and desirable.
2. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage or frontage, which would be unusable for normal purposes.
3. For Subdivisions containing more than two (2) residential building lots, no lots shall directly access an arterial or collector street.
4. All lots shown on the final plat must conform to the minimum requirements of the zoning code for the zone in which the Subdivision is located, except for remainder parcels as follows:
 - a. May be used for agricultural purposes but shall not be eligible for habitation, commercial uses, or primary structures.
 - b. May not be eligible for building permits and may not be eligible for other permitted uses. All limitations and restrictions shall be clearly noted on the final plat.
 - c. Shall be described on the final plat; however, an exception may be granted by the City Engineer.
5. Each lot shall have frontage on an improved public road as required in the zoning code and the Public Works Standards unless a permanent access easement and shared driveway has been approved.
6. All remnants of land left over after subdividing, shall be attached to adjacent lots or made part of the common area governed by a Community/Homeowners Association, rather than

allowed to remain as unusable parcels. All lands within the boundaries of the Subdivision shall be accounted for, either as lots, right of way, or as remainder parcels.

7. Lots having double frontage shall not be approved except where necessitated by topographic or other unusual conditions or where the lots are adjacent to a road that does not permit direct access (exception: corner lots).
8. Contiguous parcels owned by different parties may be embraced in one final plat, provided that all Owners join in the dedication and acknowledgments.
9. A lot shall not be divided by a city limit or county limit line. Such boundary lines shall be made at lot lines.

11.07.08 Utilities to be Underground

1. All utilities, including those that are normally overhead shall be placed underground in all Subdivisions. The Subdivider shall establish final utility grades prior to utilities being placed underground.
 - a. Exception: wireless communication equipment or where underground connection is not permitted by the Provider.

11.08 DEVELOPMENT ACTIVITY PRIOR TO PLAT RECORDING

1. **Pre-Construction Meeting.** Upon completion of the Final Plat and Improvement Plans Review Cycle and prior to commencing any construction activity, the Applicant shall schedule and attend a pre-construction meeting as required in the City's Public Works Standards for Development, Design, and Construction.
 - a. If the General Contractor changes at any time during construction, an additional pre-construction meeting shall be held before additional work commences.
2. **Inspections.** All construction shall be subject to inspections as required in the City's Public Works Standards for Development, Design, and Construction.
3. **Improvement Completion Assurance.** At any time after receiving final approval, the Applicant may post an improvement completion assurance as outlined in 11.02.09 for:
 - a. Completion of one hundred percent (100%) of the required public improvements or infrastructure; or
 - b. If the City has inspected and accepted a portion of the public improvements, one hundred percent (100%) of the incomplete or unacceptable public improvements or infrastructure.

11.08.01 Subdivision Plat Recording

1. After the plat has been acknowledged, certified, and approved, the City Recorder shall record the plat in the office of the County Recorder.

11.08.02 Improvements Completion Assurance and Guarantee of Performance

1. **Purpose.** To assure the completion of required improvements and infrastructure as required by the approved plans, Public Works Standards, and all applicable ordinances, the Subdivider shall establish a Cash Escrow account or Letter of Credit guarantee with a federally insured financial institution.

This completion assurance shall be established prior to recording the Subdivision plat. If the Subdivider installs the infrastructure and improvements and such infrastructure and improvements are inspected and approved by the City prior to recording the plat, then only warranty portion of the completion assurance shall be required.

The provisions of this section do not supersede the terms of a valid Development Agreement, an adopted phasing plan, or the State Construction Code.

2. **Cost Estimate.** The Subdivider shall submit an updated Engineer's Cost Estimate for all improvements and infrastructure required within the Subdivision. The cost estimate shall include quantities, units, and costs for all improvements and infrastructure required, and shall indicate which items have already been installed.

The City Engineer shall review and approve the cost estimate and may adjust the costs to meet current industry standards. Those items that are deemed "direct costs" shall be removed from the escrow and shall be accounted for separately.

3. **Guarantee Amount.** The guarantee shall be equal to one hundred ten percent (110%) of the cost estimated and approved by the City Engineer.
 - a. One hundred percent (100%) shall be for the cost of those improvements and infrastructure not yet installed; and
 - b. Ten percent (10%) shall be for a required one-year (1) warranty period (see Subsection 11.09-4). The warranty amount calculated shall be based upon the total cost of all required improvements and infrastructure.
4. **Liability.** The Subdivider and/or contractor shall indemnify and hold harmless the City and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorney's fees, arising out of, or resulting from the installation of the required improvements and infrastructure. The indemnity required hereby shall be included in the applicable Escrow Agreement.
5. **Default.** In the event the Subdivider is in default with any provision of this Section, or fails or neglects to satisfactorily install the required improvements and infrastructure within two (2) years from the date of approval of the final plat, or to pay all liens in connection therewith, or to correct deficiencies or damages to the improvements and infrastructure required for final acceptance (see Subsection 10 hereof), the City may declare the escrow forfeited and the City may install, repair, or cause the required improvements and infrastructure to be installed or repaired, using the proceeds from the collection of escrow to defray the expense thereof.

The City may apply all sums deposited in escrow against the cost of completing all required improvements and infrastructure and to pay all expenses, including, but not limited to, all

unreimbursed engineering expenses related to the development, a ten percent (10%) administration fee for the securing of contracts, and court costs and attorney fees. The default provisions required hereby shall be included in the applicable Escrow Agreement.

6. **Release of Funds.** The Subdivider shall be responsible for the quality of all materials and workmanship. If improvements and infrastructure are properly installed and verified via City inspections and testing, liens are paid, and other conditions are found to be satisfactory, then the City's Escrow Agent shall authorize the money held in escrow for the specific improvement completed (except for the 10% held during the hereinafter described warranty period) to be released. If the conditions of material or workmanship show unusual depreciation, or do not comply with the acceptable standards of durability, or if required inspections or testing have not been done, or if any outstanding liens are not paid, then the City may withhold releasing the money and the City may declare the Subdivider in default. The City shall have exclusive control over the release of the escrow funds, and they may be released only upon written approval by the City.
7. **Direct Costs.** The Subdivider shall pay the following direct costs at the time they establish the required Improvements Completion Assurance. The funds collected for each item will be used for the construction and installation of said items by the city; thus, removing the Subdivider's responsibility for the installation of these items as part their development:
 - a. Half percent (0.5%) of the total construction cost shall be to cover administrative costs.
 - b. Funds for the current Public Works Standard seal coat treatment. The amount shall be established by the City Engineer in accordance with recent bid prices received for similar treatment(s).
 - c. Funds for current Public Works Standard Streetlights and all associated infrastructure costs.
 - d. Funds for current Public Works Standard Street Signs.
 - e. Funds for mailbox combination boxes, if Subdivider would like them to be installed by the city (optional).
 - f. Funds associated with any cost agreement(s) with the city that was established as a condition of approval.

11.09 DEVELOPMENT ACTIVITY AFTER PLAT RECORDING

1. **Improvements and Infrastructure Required for Building Permit.** No building permit shall be issued by the City unless all required improvements are installed, inspected, and approved, with the exception of sidewalk, asphalt pavement, streetlights, and street signs.
2. **Improvements and Infrastructure Required for Occupancy.** No occupancy permit shall be issued by the City unless all required improvements are installed, including the sidewalk along the frontage of the building lot in question, but with the exception of streetlights and street signs.

3. **Conditional Acceptance of Improvements and Infrastructure.** The City Engineer shall issue conditional acceptance upon the following:
 - a. Completion of all required improvements and infrastructure.
 - b. The site has been left in an orderly and clean condition following construction. Construction waste, debris, excess fill material, or any other similar material shall not be left or abandoned on the site or on other nearby properties.
 - c. The final plat has been recorded.
 - d. The Subdivider makes a written request for inspection of improvements and infrastructure for the purpose of conditional acceptance.
 - i. The city will generate a written punch list of items needing repair, replacement or yet to be completed.
 - e. Improvements and infrastructure are inspected by the City and found to be acceptable and in compliance.
 - i. Completion of all items identified on the punch list.
 - f. Reproducible as-built drawings have been submitted to and accepted by the City Engineer.
4. **Warranty Period.** Upon receipt of Conditional Acceptance, all required improvements and infrastructure shall be warranted by the Subdivider for a period of one (1) calendar year.
5. **Final Acceptance.** Following the completion of the Warranty Period, the Public Works Director shall issue final acceptance of the Subdivision improvements and infrastructure when:
 - a. The Subdivider makes a written request for inspection of improvements and infrastructure for the purpose of Final Acceptance.
 - i. The city will generate a written punch list of items needing repair or replacement.
 - b. Improvements and infrastructure are inspected by the City and found to be acceptable and in compliance.
 - i. Completion of all items identified on the punch list.
6. **Release of Remaining Escrow.** Upon acceptance by the City Engineer, the City's Escrow Agent shall authorize the release of all remaining escrow monies.

11.10 VARIANCES AND APPEALS

11.10.01 Variances and Appeals Generally

Any Person may petition for a variance or appeal a decision pertaining to this Title to the Appeal Authority as established in **Title 10-5**, Appeal Authority.

11.11 PENALTY

1. Any Person, who shall transfer or sell, or cause to be transferred or sold, any lot or land in a Subdivision, which Subdivision has not been approved by the City, and recorded in the office of the County Recorder, shall be guilty of a Class B misdemeanor for each lot or parcel of land so transferred or sold, and the description of such lot or parcel of land by metes and bounds in the instrument of transfer, or other document used in the process of selling or transferring, shall not exempt the transaction from such penalties or from the remedies provided in this Title. The City may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction, or may recover the penalty by civil action in any court of competent jurisdiction, together with costs and attorney fees incurred in enforcing this Title.
2. Any Person violating any of the provisions of this Title shall be guilty of a Class B misdemeanor.
3. Any Person violating any of the provisions of this Title or the Public Works Standards or failing to obtain the necessary inspections and tests required for public improvements and infrastructure shall be assessed a fine as stated in the City's current adopted Consolidated Fee Schedule. Fines may be applied daily and separately for each violation.
4. The City may bring an action against an Owner to require the property to conform to the provisions of this Title, the zoning ordinance, or any other applicable Law. The action may include an injunction, abatement, merger of title, or any other appropriate action or proceedings to prevent, enjoin, or abate the violation. The City need only establish the violation to obtain the injunction.

11.12 VACATING OR ALTERING A SUBDIVISION FINAL PLAT, VACATING A STREET, RIGHT OF WAY, OR EASEMENT, AND PARCEL ADJUSTMENTS

11.12.01 Vacating, Altering, or Amending a Final Plat

1. Vacating, altering, or amending a final plat shall be done in accordance with Utah Code Annotated §10-9a-608, or its successor statute. This includes changing a Subdivision boundary, dedicated right of way, the number or layout of lots, easements, the Subdivision name, and any other aspect of a recorded final plat. If an amendment proposes significant changes to the existing Subdivision, then the Administrative Land Use Authority may require the changes to be made through the vacation of the existing final plat and/or approval of the changes being done through the process required for new Subdivisions; this should be done to ensure that significant changes receive proper review and adequate fees are obtained to cover costs to the City.
2. The Administrative Land Use Authority for vacating, altering, or amending a final plat shall be the same as that for the final plat application.

11.12.02 Vacating a Street, Right of Way, or Easement

1. Vacations shall be done in accordance with Utah Code Annotated §10-9a-609.5 or its successor statute.
2. The Administrative Land Use Authority shall be the City Council.

3. Adjusting or modifying an existing street, right of way, or easement while not eliminating the street, right of way, or easement, and while still maintaining access, does not constitute a vacation.

11.13 EXEMPTIONS FROM PLAT; PARCEL AND LOT LINE ADJUSTMENTS

11.13.01 Purpose

1. The purpose of this chapter is to outline the requirements and procedures for parcel line adjustments and lot line adjustments in accordance with Utah State Code and local land use regulations. The intent of this chapter is to allow owners of real property to adjust common property lines while minimizing delay and expense without the need of a subdivision plat.

11.13.02 Parcel Boundary Adjustments Not in a Recorded Subdivision

1. **Approval Required.** Prior to the recording of a parcel line adjustment between adjoining properties not located within a platted subdivision, the adjustment must first be approved by the Administrative Land Use Authority if the any of the properties involved includes a dwelling unit.
 - a. **Exemption:** Approval is not required prior to recording of a parcel line adjustment if the properties involved do not contain a dwelling unit.
2. **Review.** Application and the review of a proposed parcel line adjustment shall follow the procedures listed below:
 - a. **Application.** An applicant, either an owner of one of the properties or a representative of the owners, shall submit a complete application which shall include:
 - i. Property owner(s) affidavit acknowledging the consent of each party for the proposed adjustment.
 - ii. Property survey(s) with all existing improvements to the properties;
 - iii. A legal description of the proposed parcel line and of each parcel after the boundary line is changed;
 - iv. A site plan or exhibit serving as a visual depiction of the parcel line adjustment;
 - v. Any necessary improvement plans, agreements, or additional materials needed for review as determined by the Administrative Land Use Authority.
 - b. **Review Procedure.** Upon receipt and payment of a complete application, the Administrative Land Use Authority shall commence the review of the parcel line adjustment request. The review shall be completed, with a written response returned to the applicant, within fourteen (14) business days from the date of complete application. The reviewing parties shall review the adjustment for compliance with city zoning and public works standards.

3. **Final Approval.** If the proposed parcel line adjustment complies with all city ordinances and development standards, written approval shall be provided to the applicant by the City Planner or designee.
4. **Recording.** Upon final approval from the Administrative Land Use Authority, the applicant shall record the approved documents at the office of the Davis County Recorder to complete the parcel line adjustment. The parcel line adjustment may be completed by a quitclaim deed or boundary line agreement and shall be accompanied by the following:
 - a. The written notice of approval of the parcel line adjustment by Fruit Heights City that recites the legal descriptions of both the original parcels and the parcels resulting from the exchange of title;
 - b. The approved site plan or exhibit depicting the new parcel boundaries and adjacent properties if deemed necessary; and
 - c. Any other documents deemed necessary as part of the parcel line adjustment approval.
5. **Exception.** If the parcel line adjustment is creating a new parcel(s) for the purpose of constructing a dwelling unit, a subdivision plat must be approved, and the provisions of this title must be followed.
6. All parcel line adjustments shall comply with applicable state code regulations found under sections §10-9a-523 (property boundary adjustment) and §10-9a-524 (boundary line agreement). A parcel line adjustment shall follow the procedures provided herein unless exempted from local land use authority review as provided in the forementioned state code sections.

11.13.03 Lot Line Adjustments within a Recorded Subdivision

1. **Approval Required.** Prior to the recording of a lot line adjustment between adjoining properties within a platted subdivision, the adjustment must first be approved by the Administrative Land Use Authority.
2. **Review.** Application and the review of a proposed lot line adjustment shall follow the procedures listed below:
 - a. **Application.** An applicant, either an owner of one of the properties or a representative of the owners, shall submit a complete application which shall include:
 - i. Property owner(s) affidavit acknowledging the consent of each party for the proposed adjustment between the lots.
 - ii. Property survey(s) with all existing improvements to the lots and reference to the subdivision within which the properties are located including easements located on the lots;
 - iii. A legal description of each of the proposed lots after the lot line is changed including any changes to platted easements associated with the lots;

- iv. A site plan or exhibit serving as a visual depiction of the lot line adjustment. Although not a plat, the site plan or exhibit shall sufficiently represent the new lots and include adjacent lots within the subdivision;
 - v. Any necessary improvement plans, agreements, or additional materials needed for review as determined by the City Planner, City Engineer, or designees.
- b. **Review Procedure.** Upon receipt and payment of a complete application, the Administrative Land Use Authority shall commence the review of the lot line adjustment request. The review shall be completed, with a written response returned to the applicant, within fourteen (14) business days from the date of complete application. The reviewing parties shall review the adjustment for compliance with city zoning and public works standards.
3. **Final Approval.** If the proposed lot line adjustment complies with all city ordinances and development standards, written approval shall be provided to the applicant by the City Planner or designee.
4. **Recording.** Upon final approval from the Administrative Land Use Authority, the applicant shall record the approved documents at the office of the Davis County Recorder to complete the lot line adjustment. The lot line adjustment may be completed by quitclaim deed or boundary line agreement and shall be accompanied by the following:
- a. The written notice of approval of the lot line adjustment by Fruit Heights City that recites the legal descriptions of both the original lots and the lots resulting from the exchange of title;
 - b. The approved site plan or exhibit depicting the new lot boundaries along with adjacent lots within the subdivision; and
 - c. Any other documents deemed necessary as part of the lot line adjustment approval.
5. **Exception.** If the lot line adjustment is creating a new lot(s) or parcel(s) for the purpose of constructing a dwelling unit, a subdivision plat must be approved, and the provisions of this title must be followed.
6. All lot line adjustments shall comply with applicable state code regulations found under section §10-9a-608 (5). A lot line adjustment shall follow the procedures provided herein unless an amended plat is required per state statute.

11.14 EXEMPTIONS FOR BONA FIDE AGRICULTURAL AND UTILITY SERVICE PURPOSES

11.14.01 Purpose and Intent

Utah Code §10-9a-605(2) exempts agricultural lands from plat requirements under the certain conditions therein.

11.14.02 Qualifications of Land for Agricultural Purposes

Agricultural land may be divided or partitioned under this Chapter only under the following circumstances:

1. The property must have been solely for agricultural use and actively devoted to agricultural use as defined by Utah Code 59-2-502 and must continue to be used solely for agricultural use in the future.
2. All of the lots or parcels must meet the minimum lot size requirements of the applicable zoning district.

11.14.03 Agricultural Partition Parcels as Buildable Lots

An agricultural partition lot is buildable for only bona-fide agricultural purposes. A parcel created in accordance with this Chapter is not considered a buildable lot for residential, commercial, industrial, or any other non-agricultural purposes.

11.14.04 Public Improvements and Infrastructure

The City shall not require any public improvements and infrastructure to be installed as a condition of approval for agricultural partitions.

11.14.05 Use of Property Created Under This Part for Non-Agricultural Purposes

If a lot or parcel created by this part is used for a non-agricultural purpose, the City shall require the lot or parcel to comply with the requirements of the Subdivision and land use provisions of the City.

11.14.06 Utilities

A Subdivision of land for utility purposes (unmanned facilities such as: substations, regulator stations, towers, etc.) creating a parcel(s) under eight thousand square feet (8,000 ft²) in size may be exempted by the Administrative Land Use Authority for certain provisions of this Title and/or provisions of City Code relating to lot size, frontage, setbacks, and improvements and infrastructure.

11.14.07 Parent Parcels

The parent parcel from which the agricultural or utility lot(s) is created shall be labeled as a remainder parcel and shall not be part of an approved Subdivision until such time as it complies with the provisions of this Title and other relevant sections of the City Code and has received the applicable land use approval(s).

